

MICHIGAN EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW COMMISSION

MEETING MINUTES

**Presentation Room
Michigan State Police
4000 Collins Road
Lansing, Michigan 48910**

DRAFT

April 10, 2007

Subject to Commission Approval

COMMISSIONERS PRESENT

Brad Deacon
Burton Eichler
Kenneth Gembel
Tom Martin
Dawn Mills
Kenneth Murray
Ron Nelson
Gail Novak
Ida Shelly
Martha Stanbury
Arthur Tanis

COMMISSIONERS EXCUSED ABSENCE

Capt. Eddie L. Washington, Jr., Chair
Amy Butler, Vice Chair
Christopher Johnson
Grace Ranger

OTHERS PRESENT

Susan Parker, DEQ
F/Lt. Harold Love, MSP/EMHSD
Jim Breuker, MSP/EMHSD
Sandy Glazier, MSP/EMHSD
Jackie Hampton, MSP/EMHSD
Mark Wesley, MSP/EMHSD
Diane Laban, MSP/EMHSD

1. **Call Meeting to Order.** The meeting was called to order at 1:35 p.m. by Commissioner Brad Deacon and roll call was taken. Commissioner Deacon asked for a motion to excuse absent Commission members. Motion was made by Commissioner Martin, supported by Commissioner Eichler. Unanimous approval.
2. **Approve Agenda.** A motion was made by Commissioner Eichler, supported by Commissioner Mills, to approve the meeting agenda as submitted. Unanimous approval.
3. **Approve Meeting Minutes.** Commissioner Deacon asked Commission members to take a few minutes to review the new draft of the January 9, 2007, meeting minutes. Commissioner Stanbury indicated that on page 4, under "Goal 3," she had also volunteered to participate on that committee and would like to have her name reflected in the minutes. A motion was made by Commissioner Tanis, seconded by Commissioner Eichler, to approve the minutes with noted changes. Unanimous approval.

SERC Commission Meeting Minutes

April 10, 2007

Page 2

- 4. Comments and Updates.** Commissioner Deacon informed committee members that he was asked to chair today's meeting in the absence of Chair Washington and Vice Chair Butler. They had other commitments develop, but did feel it was important to move this meeting forward today, as there were many topics to cover.

Commissioner Deacon announced that Commissioner Greg Kirt officially retired from the Michigan State Police, Emergency Management and Homeland Security Division, on March 30, 2007. On behalf of the SERC, we wish him the best and would like convey our appreciation for his time and service.

Commissioner Deacon introduced Ms. Sandy Glazier to report on the status of the Freedom of Information Act. Ms. Glazier indicated that during the week of March 11–17, 2007, also referred to as "Sunshine Week," a news reporter from the Kalamazoo Gazette (Alex Nixon) contacted the MSP Emergency Management and Homeland Security Division requesting information regarding the Community Right-To-Know Act and SARA Title III plans. The Division cooperated and supplied the information; however, in the meantime, their reporters were also contacting Allegan, Barry, Cass, Kalamazoo, St. Joseph, and Van Buren counties. A news article was printed based on responses from those counties. The conflict is that SARA Title III Community Right-To-Know provisions state that although any person requesting Tier Two information shall be able to obtain it, some local emergency planning committees or emergency management offices are refusing to release this information based on their interpretation of the FOIA exemptions included in Michigan's Anti-Terrorism Act of 2002. This Act was enacted after September 11, 2001, in order to keep information out of the hands of terrorists. Therefore, there is a conflict because there are some exemptions in our state laws which could be interpreted from complying with this federal law. In mid March, Environmental Data Sources also contacted the Department of Environmental Quality (DEQ) requesting their entire database which includes over 6,000 sites. At that time, it was suggested that DEQ obtain the opinion of the Attorney General's Office to comply with this request. We do not believe that fulfilling this request is the intent of SARA Title III law provisions. Ms. Glazier indicated that she has copies of some news articles containing this information for anyone wishing to have one.

At this point, Ms. Glazier introduced F/Lt. Harold Love who is the new Public Information Officer with the MSP Emergency Management and Homeland Security Division. Lieutenant Love indicated that Ms. Kate Bower from the FOIA Unit has been working on responses to several requests which have been made for databases of all equipment that has been purchased for every entity in Michigan through homeland security funds. Our stand is that to release that information could put it in the hands of those who may wish to do harm because such information would include any county, city, or private entity that has purchased equipment. The Attorney General's Office was standing with us on this, questioning why this information should be released.

There was some discussion among commissioners regarding the separation between Homeland Security and Community Right-To-Know and how FOIA fits in. Commissioner Deacon closed the discussion by stating that perhaps we will receive a response from the State Attorney General's Office prior to the next SERC meeting, and can report on this issue at that time.

Commissioner Deacon introduced Ms. Jackie Hampton from the MSP/EMHSD to report on the status of SERC-related issues.

- Ms. Hampton reported on the status of SERC Commissioner expired appointments indicating that unfortunately Chair Washington is not familiar with the newly-appointed person in charge of those appointments in the Governor's Office, so the process may take a while longer.
- Ms. Hampton indicated that all SERC Commissioners should have received a formal invitation letter to the Homeland Security Conference in May. She reminded commissioners to register on-line as soon as possible and to provide her with their lodging needs this week. She also clarified that the money for commissioners' attendance is 100 percent federal and is from the performance period for the 2004 grant expiring May 2007. The Department believes it is money well-spent.

SERC Commission Meeting Minutes

April 10, 2007

Page 3

- Ms. Hampton was informed by Ms. Cynthia Zwick from the Michigan Chemistry Council that the next scheduled TRANSCAER workshops will be in 2008, as they are held every other year.
- Ms. Hampton addressed the suggestion that LEPC meeting schedules be posted on the MSP/EMHSD website. In discussions with Division employees, there was concern expressed regarding the ability to keep the site updated and current; however, they did offer that LEPC links could be created so that meeting schedules could be accessed from the website.
- Ms. Hampton indicated that F/Lt. Harold Love has already introduced himself as the new Public Information Officer for the MSP/EMHSD, but wanted to mention that staff is excited to have him in the Division.

5. MSP/EMHSD Activity Report.

Mr. Jim Breuker reported that the Annual HMEP Conference will be held in Kansas City, Missouri, April 16-20, 2007. As part of this, the grant application process development is underway for locals to apply for funding for next year's plans.

Mr. Breuker indicated that the Division is continuing to work with Wayne County regarding grant payment issues that occurred last year. Ms. Glazier added that Wayne County recently advised that they did receive the grant contract in their office.

Mr. Breuker reported that the Division is currently working on the development of an informational letter which would be distributed to county commission chairs. Such a letter would educate them about their LEPCs, the kind of work that they are doing (particularly planning work), and hopefully encourage them to work with their LEPCs to complete their plans.

Mr. Breuker reported that he was in Cheboygan yesterday to attend a combined LEPC meeting involving Cheboygan, Charlevoix, and Emmet. He was asked to attend in order to answer questions, and learned that although they do not have a lot of issues, they are a very active group.

6. DEQ Activity Report.

Ms. Parker reported that *Tier II Manager* went into production on March 23, 2007, and 1,400 reports are currently processed. The deadline for reporting was changed to April 20, 2007, and individual extensions will be granted upon request. The program still does not include all requested modifications, and the Planning Module has not yet been tested. Grants cannot be issued to the nine participating counties until there is clarification regarding the Governor's directive.

Ms. Parker reminded SERC commissioners of the regulatory change that went into effect in 1999 whereby the Tier Two reporting threshold for gasoline at retail gas stations was raised from 10,000 pounds (about 1,500 gallons) to 75,000 gallons. The definition of gasoline includes gasohol which is composed of at least 90 percent gasoline and up to 10 percent ethanol. She reported that there is a growing number of gas stations that offer alternative fuels such as E85 which contain greater than 10 percent ethanol; therefore, it would be reportable at the 10,000 pound threshold. The SERC does not want all of the gas stations to start reporting again. Ms. Parker was asked to investigate how other states are handling this situation.

Commissioner Deacon asked Ms. Parker to draft a proposal for SERC Commission review at the July 10, 2007, meeting. Such a proposal would be sent to the EPA from the SERC Commission requesting that the threshold be increased to 75,000 gallons for alternative fuels at retail gas stations.

SERC Commission Meeting Minutes

April 10, 2007

Page 4

7. SERC Goals and Objectives.

Goal 1: Provide Outreach and Educate Public Officials:

Commissioner Gembel reported that their subcommittee, which consists of himself and Commissioners Ida Shelly, Art Tanis, Brad Deacon, and Christopher Johnson, were given the opportunity to consider methods of SERC outreach for public officials. It was decided that elected community leaders, other than emergency Management and LEPC personnel, would be the right target audience. The goal set was that elected community leaders have a clear understanding of the functions and responsibilities of the SERC and the important position that elected officials hold in support of LEPC tasks and mandated objectives. Commissioner Gembel indicated that these are talking points, if anyone wishes to comment. As discussed at the last SERC meeting, it was agreed that at the initial stage there are three appropriate organizations to contact in terms of developing a relationship. These include the Michigan Association of Counties (MAC), the Michigan Township Association (MTA), and the Michigan Municipality League (MML).

Commissioner Deacon commented that he and Commissioner Gembel discussed the idea of developing condensed PowerPoint programs on various topics of interest which could be facilitated and presented at conferences.

It was also suggested that Michigan State Police media resources would be a good source of advertising for the SERC Commission--explaining what they do and the importance of working with elected officials.

After brief discussion, Ms. Hampton confirmed with Commissioner Tanis that he would like to have Chair Washington formulate an article regarding the SERC Commission for the monthly newsletter.

Commissioner Gembel indicated, as a follow-up to this goal report, that they will have a contact person established and educational documents presented for review at the next meeting.

Goal 2: Develop or Update Policy and Procedures:

Commissioner Novak reported that their subcommittee, which consists of herself, Vice Chair Amy Butler, and Commissioner Art Tanis, met on April 2, 2007. Ms. Jackie Hampton from the MSP/EMHSD was also in attendance. As a result of this meeting, ten years of policies, procedures, and motions from early SERC meetings will be incorporated into a document. In addition, the MSP/EMHSD provided copies of meeting minutes from 1996 to present, and staff is currently reviewing those minutes, focusing on any motions related to policy. The subcommittee anticipates this document, which will entail what the SERC Commission has accomplished from 1986 to present, will be made available at the next meeting.

Commissioner Novak suggested that old mission statements be replaced with the new ones, as they are completed. She reminded commissioners that this endeavor is the result of a question raised at a previous SERC meeting. That is, "Who appoints LEPCs?" Documents have been located which indicate that county executives or Board chairpersons appoint LEPC members. In addition, there are SERC Commission by-laws from 2004 which should be incorporated in to the new by-laws.

Goal 3: Provide Support to Local Emergency Planning Committees (LEPCs):

Commissioner Murray reported that their subcommittee, which consists of Commissioners Dawn Mills, Martha Stanbury, and Ida Shelly, held a conference call meeting regarding their mission. As a result, an all comprehensive survey questionnaire was formulated, and he thanked Commissioner Stanbury and Ms. Susan Parker for their hard work regarding this. He indicated that Commissioner Stanbury generated the basic plan which had not been done since 1995. The questionnaire and cover letter were included in today's meeting packet. Commissioner Stanbury asked for feedback from commissioners. Once survey feedback is received and reviewed, then she will send it to Chair Washington and Ms. Hampton in edit format, and they will be in charge of distribution. Commissioner Stanbury

SERC Commission Meeting Minutes

April 10, 2007

Page 5

questioned who the contact person would be, and expressed concern regarding the visual design of the survey. Ms. Hampton indicated that they would make a decision regarding the contact person, and that she has some samples of other survey designs which can be reviewed. There was some discussion regarding how to compile the surveys when they are returned.

8. Commissioner Comments.

Commissioner Novak stated that she hopes everyone has received their invitation to Oakland County LEPC's 20th anniversary reception. They are accepting RSVPs at the time, however, not everyone was invited because they are holding it at their offices and space is limited.

Commissioner Murray indicated that everyone should have or will be receiving the Wayne County Department of Homeland Security by-laws. Commissioner Murray inquired as to the status of the SERC picture badges. Ms. Hampton indicated that she would inquire regarding their status, but that current budget restraints may be a factor in having these made.

Commissioner Gembel reported that yesterday he viewed on the Federal Register that there is a new mandate for EPA for chemical facilities to develop vulnerability assessments. He offered that this might be something the SERC Commission should review. There was some discussion among commissioners regarding this topic.

Commissioner Mills indicated that she distributed a pamphlet regarding the 18th NO SPILLS Conference, scheduled for January 14-16, 2008, as well as a business card for anyone with questions.

Ms. Laban indicated that she will make updates/changes to the SERC Commission roster and e-mail the new one when completed.

Commissioner Deacon reported that approximately two weeks ago, the Governor's Office issued new executive orders curtailing all spending and other activities. Grants are temporarily frozen as well; therefore, many meetings and conferences may be a challenge for the time being.

Commissioner Stanbury reported that the Center for Public Preparedness at the University of Michigan is offering a course this year titled, "Applied Incident Command for Public Health." This is a free course which is being offered at six sites around the state. She has some brochures with her, if anyone is interested.

Commissioner Stanbury inquired regarding the process for SERC Commission membership appointments, as she noticed there is currently a vacancy representing education, health and safety, and that there doesn't appear to be an environmental advocacy group represented. This generated some discussion among commissioners regarding the history of SERC appointments. Commissioner Eichler indicated that the positions were originally mandated and then persons were selected to fill them. Commissioner Deacon suggested that these issues could be clarified when Chair Washington is able to obtain information from the Governor's Office on the status of commissioner appointments. Ms. Hampton added that the Commission should provide a clear message on their importance prior to approaching the Governor's Office. Commissioner Stanbury suggested that this topic be placed on the next meeting agenda. Ms. Hampton will review any correspondence pertaining to appointment history prior to the next meeting.

9. Public Comments

There were no public comments.

10. Adjourn.

Commissioner Eichler made a motion to adjourn the meeting, seconded by Commissioner Gembel. Unanimous approval. Meeting was adjourned at 3:15 p.m.

